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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>05 December 2005</u>.

2a)☐ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-15 and 17-39</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-15 and 17-39</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on <u>13 December 2005</u> is/are: a)☒ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☒ All b)☐ Some * c)☐ None of:

       1.☐ Certified copies of the priority documents have been received.

       2.☐ Certified copies of the priority documents have been received in Application No. _____.

       3.☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☒ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

Claim Objections

1.   Claim 6 is objected to because of the following informalities:

        Claim 6: "proscribed" should be corrected to --prescribed--.

2.   Appropriate correction is required.

Claim Rejections - 35 USC § 112

3.   The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly
> claiming the subject matter which the applicant regards as his invention.

4.   Claims 28, 34, and 35 are rejected under 35 U.S.C. 112, second paragraph, as

being indefinite for failing to particularly point out and distinctly claim the subject matter

which applicant regards as the invention.

        Claims 28 and 34: The phrase "such as" renders the claims indefinite because it

        is unclear whether the limitations following the phrase are part of the claimed

        invention. See MPEP § 2173.05(d).

        Claim 35 is indefinite because it depends on claim 34.

Claim Rejections - 35 USC § 101

5.   35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of
> matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the
> conditions and requirements of this title.

6.   Claim 25 is rejected under 35 U.S.C. 101 because the claimed invention is
directed to non-statutory subject matter. Claim scope is not limited by claim language
that suggests or makes optional. The phrase 'preferably' renders the usage of a 'data
carrier or computer readable medium' optional rendering the scope of the claim merely
a computer program. Furthermore, a computer program "on a data carrier" (i.e. signal)
is non-statutory.

Claim Rejections - 35 USC § 103

7.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all
obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

8.   Claims 1-3, 5-9, 11-15, 17, 18, 21-29, 31, 36, 38, and 39 are rejected under 35
U.S.C. 103(a) as being unpatentable over Del Sordo (WO 00/64180).

Claim 1: Del Sordo discloses a television system for presenting […] television
services to a user, the system comprising:

- a local memory (memories 303, 309, 310 [Fig 3]);

- means for determining the availability of data from a data source
  (receiving data from a cable television system [Abstract]);

- means for capturing a first portion of data (e.g., a packet identifiers table
  [pg. 4, l. 1-11]);

- means for storing the first portion in a first area of the local memory, the
  first portion having a first specified identity [pg. 4, l. 1-11];

- means for determining whether the first portion references a second
  portion of the available data depending on a value of one or more
  parameters stored in the local memory (table contains download locators
  which reference where a code object can be acquired [pg. 4, l. 1-23]), the
  second portion having a second specified identity [pg. 4, l. 21-23]; and

- means for capturing the second portion and storing the second portion in a
  second area of the local memory in the event that a reference between the
  first and second portions is found (in the event that the platform identifiers
  match [pg. 4, l. 9-14]), wherein the data capture is usable to provide […]
  services for the user [pg. 9, l. 10-16].

Del Sordo does not further disclose that the services are interactive services
(e.g., resident application code objects [pg 9, l. 10-16] are not specifically
disclosed as interactive).

Del Sordo teaches that it is typical to provide an electronic program guide as
an application of a set-top box [pg. 1, l. 26-29].

It would have been obvious to have provided an interactive electronic program guide as one of the second portion code objects (e.g., as a resident application code object [pg. 4, l. 21-23]) due to the typical use of interactive electronic program guides as applications on set-top boxes [pg. 1, l. 26-29] for the purpose of making program selection easier for the user.

Claim 2: Del Sordo further discloses a television system as claimed in claim 1 wherein the local memory includes volatile and non-volatile memory (memories 303, 309, 310 [Fig 3]).

Claim 3: Del Sordo further discloses a system as claimed in claim 2 wherein the first and second memory areas are volatile memory [pg. 18, l. 12-16].

Claim 5: Del Sordo does not specifically disclose that the non-volatile memory 310 [Fig 3] is a hard drive.

OFFICIAL NOTICE is taken that a hard drive was well known to be an inexpensive form of non-volatile memory.

Therefore it would have been obvious to have used a hard drive as the non-volatile memory for the purpose of using a low-cost form of non-volatile memory.

Claim 6: Del Sordo further discloses a system as claimed in claim 1 further comprising means for processing the first and second portions of data based on

steps wholly or partially proscribed in code contained within a downloaded data

object (downloaded base platform code prescribes the download of the O/S

object using the method of claim 1 [pg. 8, l. 7-30]), wherein the processed data is

stored in the second part of the local memory for use in presenting said

interactive services (in the flash memory 303 [Fig 3]).

Claim 7: Del Sordo further discloses a system as claimed in claim 1, the system

being operable to perform the capturing/downloading of data while the system is

not presenting services to a user (before the system is initialized [pg. 8, l. 1-6]).

Claim 8: Del Sordo further discloses a system as claimed in claim 1 wherein the

data source is one or more of a broadcast television network [Abstract] and the

internet.

Claim 9: Del Sordo further discloses a system as claimed in claim 1 that is

operable to determine whether data that is scheduled to be transmitted from the

data source is more recent/up-to-date than the data in the local memory and

prevent or omit a scheduled download in the event that data from said source is

determined not to be more recent/up-to-date than the data in local memory (the

system recognizes upgrades [pg. 5, l. 20-30] and only downloads appropriate

objects [pg. 6, l. 13-24]).

Claim 11: Del Sordo further discloses a system as claimed in claim 1 wherein a portion of the data captured from the data source comprises a service entitlement or disentitlement message addressed to the system platform (entitlement management message [Abstract]).

Claim 12: Del Sordo discloses a system as claimed in claim 1 wherein the presented interactive service comprises an electronic program guide (see claim 1 rejection) or an on screen television magazine.

Claim 13: Del Sordo does not specifically disclose a system as claimed in claim 1 wherein the presented interactive service comprises an interactive game.

OFFICIAL NOTICE is taken that interactive games were well known as interactive services available on a set-top-box.

Therefore it would have been obvious to have implemented an interactive game as an application code object [pg. 4, l. 21-23] for the purpose of providing entertainment applications to the user.

Claim 14: Sordo further discloses a system as claimed in claim 1 wherein the presented interactive service comprises playback of a stored video or audio clip, or a video or audio stream (television channel video stream [Abstract]).

Claim 15: Del Sordo further discloses a system as claimed in claim 1 comprising a set-top-box [Abstract].

Claim 17: Del Sordo discloses a method for presenting [...] television services to a user of a television system, the method comprising:

- determining availability of data from a data source (receiving data from a cable television system [Abstract]);

- capturing at least some of the available data (e.g., a base platform code object [pg. 4, l. 21-23]);

- storing a first portion of the available data in a first area of a local memory (in an area of one of memories 303, 309, 310 [Fig 3]), said first portion having a specified identity [pg. 4, l. 21-23];

- determining whether the first data portion references a second data portion of the available data depending on a value of one or more parameters stored in the local memory (base platform code controls acquisition of an O/S [pg. 8, l. 23-30] depending on a device class parameter [pg. 12, l. 15-23]), the second data portion also having a specified identity (an O/S [pg. 8, l. 23-30]);

- storing the second portion in the first area of local memory in the event that a reference between the first and second portions is found (in the event that the platform identifiers match [pg. 4, l. 9-14]);

- processing the first and second portions of data according to their identities (authenticating downloaded components [pg. 18, l. 12-16]);

- writing the processed data to a second area of the local memory (to non-volatile memory [pg. 18, l. 12-16]); and

- using the processed data to present interactive television services to the user (running base platform code [pg. 8, l. 23-30] and O/S code [pg. 9, l. 1-9]).

Del Sordo does not further disclose that the services are interactive services (e.g., resident application code objects [pg 9, l. 10-16] are not specifically disclosed as interactive).

Del Sordo teaches that it is typical to provide an electronic program guide as an application of a set-top box [pg. 1, l. 26-29].

It would have been obvious to have provided an interactive electronic program guide as one of the second portion code objects (e.g., as a resident application code object [pg. 4, l. 21-23]) due to the typical use of interactive electronic program guides as applications on set-top boxes [pg. 1, l. 26-29] for the purpose of making program selection easier for the user.

Claims 18 and 21-24 are rejected under the same grounds as claims 2, 6-8, and 15 respectively.

Claim 25: Del Sordo discloses a computer program, preferably on a data carrier
or a computer readable medium, for presenting [...] television services to a user
of a television system, the computer program having code or instructions for:

- determining availability of data from a data source (receiving data from a
  cable television system [Abstract]);

- capturing the available data (receiving the data);

- storing a first portion of the available data (e.g., a base platform code
  object [pg. 4, l. 21-23]) in a first area of a local memory (in an area of one
  of memories 303, 309, 310 [Fig 3]), said first portion having a specified
  identity [pg. 4, l. 21-23;

- determining whether the first data portion references a second portion of
  the available data depending on a value of one or more parameters stored
  in the local memory (base platform code controls acquisition of an O/S
  [pg. 8, l. 23-30] depending on a device class parameter [pg. 12, l. 15-23]),
  the second portion also having a specified identity (an O/S [pg. 8, l. 23-
  30]);

- storing the second portion in the first area of local memory in the event
  that a reference between the first and second portions is found (in the
  event that the platform identifiers match [pg. 4, l. 9-14]);

- processing the first and second portions of data according to their
  identities (authenticating downloaded components [pg. 18, l. 12-16]);

- writing the processed data to a second area of the local memory (to non-
  volatile memory [pg. 18, l. 12-16]); and

- using the processed data to present [...] television services to the user
  (running base platform code [pg. 8, l. 23-30] and O/S code [pg. 9, l. 1-9]).

Del Sordo does not further disclose that the services are interactive services
(e.g., resident application code objects [pg 9, l. 10-16] are not specifically
disclosed as interactive).

Del Sordo teaches that it is typical to provide an electronic program guide as
an application of a set-top box [pg. 1, l. 26-29].

It would have been obvious to have provided an interactive electronic
program guide as one of the second portion code objects (e.g., as a resident
application code object [pg. 4, l. 21-23]) due to the typical use of interactive
electronic program guides as applications on set-top boxes [pg. 1, l. 26-29] for
the purpose of making program selection easier for the user.

Claim 26: Del Sordo discloses a television system comprising:

- means for transmitting data streams that include [...] television service
  content and/or software up-dates [pg. 3, l. 10-31]; and

- a plurality of different user platforms for receiving the data streams [pg. 3,
  l. 10-31],

- wherein the data streams include a plurality of different user platform
  identifiers for identifying which parts of the stream are for use by which

platforms [pg. 3, l. 23-31], at least some of the data and/or software being

sharable by more than one of the platforms (the operating system includes

a device-specific module, but the rest is generic [pg. 9, l. 1-9]), and

- wherein at least one of the user platforms is operable to recognize the

    parts of the data stream that are for use by it and use those parts to cause

    interactive content or images to be presented on screen simultaneous with

    or as an alternative to television content (user platform downloads

    appropriate interactive code objects and runs them [pg. 4, l. 1-31]).

Del Sordo does not further disclose that the services are interactive services

(e.g., resident application code objects [pg 9, l. 10-16] are not specifically

disclosed as interactive).

Del Sordo teaches that it is typical to provide an electronic program guide as

an application of a set-top box [pg. 1, l. 26-29].

It would have been obvious to have provided an interactive electronic

program guide as one of the second portion code objects (e.g., as a resident

application code object [pg. 4, l. 21-23]) due to the typical use of interactive

electronic program guides as applications on set-top boxes [pg. 1, l. 26-29] for

the purpose of making program selection easier for the user.

Claim 27: Del Sordo discloses a method for delivering [...] content to a user of a

television system comprising:

- transmitting broadcasting data streams that include data and/or software
  for implementing interactive services to a plurality of different user
  television platforms [pg. 3, l. 10-31], wherein the data streams include a
  plurality of different user platform identifiers for identifying which parts of
  the stream are for use by which platforms [pg. 3, l. 23-31], at least some of
  the data and/or software being sharable by more than one of the platforms
  (the operating system includes a device-specific module, but the rest is
  generic [pg. 9, l. 1-9]); and

- capturing at one or more of the user platforms the parts of the data stream
  that are for use by it (user platform downloads appropriate code objects
  and runs them [pg. 4, l. 1-31]).

Del Sordo does not further disclose that the service contents are interactive
services (e.g., resident application code objects [pg 9, l. 10-16] are not
specifically disclosed as interactive) or that the service contents or images are to
be presented on screen simultaneous with or as an alternative to television
content.

Del Sordo teaches that it is typical to provide an electronic program guide as
an application of a set-top box [pg. 1, l. 26-29].

It would have been obvious to have provided an interactive electronic
program guide as one of the second portion code objects (e.g., as a resident
application code object [pg. 4, l. 21-23]) due to the typical use of interactive

electronic program guides as applications on set-top boxes [pg. 1, l. 26-29] for

the purpose of making program selection easier for the user.

Claim 28: Del Sordo discloses an [...] television system, such as a television, set-

top-box or some other consumer electronic appliance that is operable to receive

and display a television service [Abstract], the system having a.local memory

(memories 303, 309, 310 [Fig 3]) and being operable to capture/download

conditionally linked data objects (code objects [pg. 4, l. 21-13], conditionally

linked by platform identifiers [pg. 4, l. 1-20]); use parameters that are stored in

local memory to identify data objects that have to be stored (platform identifiers

[pg. 4, l. 1-20]), and in the event that data objects are identified, cause those

objects to be stored in local memory [pg. 4, l. 1-20].

    Del Sordo does not further disclose that the services are interactive services

(e.g., resident application code objects [pg 9, l. 10-16] are not specifically

disclosed as interactive).

    Del Sordo teaches that it is typical to provide an electronic program guide as

an application of a set-top box [pg. 1, l. 26-29].

    It would have been obvious to have provided an interactive electronic

program guide as one of the second portion code objects (e.g., as a resident

application code object [pg. 4, l. 21-23]) due to the typical use of interactive

electronic program guides as applications on set-top boxes [pg. 1, l. 26-29] for

the purpose of making program selection easier for the user.

Claim 29: Del Sordo discloses a method for providing [...] television services comprising transmitting/broadcasting a conditional hierarchy of data objects (code objects [pg. 4, l. 21-13], conditionally linked by platform identifiers [pg. 4, l. 1-20], hierarchical by the order of download [pg. 8, l. 7-30]) to a plurality of different user platforms [pg. 3, l. 10-31], the data objects including parameter identifiers that are usable by the user platforms to identify data objects that are to be stored for later use [pg. 4, l. 1-20].

Del Sordo does not further disclose that the services are interactive services (e.g., resident application code objects [pg 9, l. 10-16] are not specifically disclosed as interactive).

Del Sordo teaches that it is typical to provide an electronic program guide as an application of a set-top box [pg. 1, l. 26-29].

It would have been obvious to have provided an interactive electronic program guide as one of the second portion code objects (e.g., as a resident application code object [pg. 4, l. 21-23]) due to the typical use of interactive electronic program guides as applications on set-top boxes [pg. 1, l. 26-29] for the purpose of making program selection easier for the user.

Claim 31: Del Sordo further discloses a television system as claimed in claim 1, wherein the second data portion is transmitted as one or a plurality of conditionally linked data objects (code objects [pg. 4, l. 21-13], conditionally

linked by platform identifiers [pg. 4, l. 1-20]), and the system includes means for

resolving the identities of the linked objects while one or a plurality of them are

captured and stored [pg. 4, l. 1-20].

Claim 36: Del Sordo further discloses a television system as claimed in claim 1,

wherein the data is transmitted in a platform independent form (in a platform

indepent transport stream [pg. 4, l. 1-11]) and the system comprises means for

converting that data into a form that can be executed locally (extracting locally

executable code objects [pg. 4, l. 1-23]).

Claim 38: Del Sordo further discloses a method as claimed in claim 17, wherein

the second data portion is transmitted as one or a plurality of conditionally linked

data objects (code objects [pg. 4, l. 21-13], conditionally linked by platform

identifiers [pg. 4, l. 1-20]), and the method involves determining the relevant data

within the linked objects after the second portion of data is stored (executing the

second code object).

Claim 39: Del Sordo further discloses a method as claimed in claim 17, wherein

the data is transmitted in a platform independent form (in a platform indepent

transport stream [pg. 4, l. 1-11]) and the method further involves converting data

captured into a form that can be executed locally (extracting locally executable

code objects [pg. 4, l. 1-23]).

9.   Claims 4, 19, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable

over Del Sordo (WO 00/64180) in view of Applicant's admitted prior art.

Claims 4 and 20: Del Sordo does not specifically disclose that the RAM 309 [Fig

3] is DRAM.

Applicant discloses that it was well known to use DRAM in set-top-box

platforms (Specification pg. 1, "Background of the Invention" para 1).

Therefore it would have been obvious to have made the RAM disclosed by

Del Sordo to be DRAM as disclosed by Applicant, due to the well-known utility of

DRAM for use in set-top boxes.

Claim 19: Del Sordo discloses that the first memory is volatile memory, but not

that the second memory area is volatile memory [pg. 18, l. 12-16].

Applicant discloses that it was known to have a set-top-box containing only

volatile memory (Specification pg. 1, "Background of the Invention" para 1).

It would have been obvious to have used a volatile memory for both memory

areas in the invention of Del Sordo for the purpose of reducing the number of

components in order to make the device smaller or less costly.

10.   Claims 10, 30, and 37 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Del Sordo (WO 00/64180) in view of Tahtinen (US 6963736).

Claim 10: Del Sordo does not disclose a system as claimed in claim 1 wherein

one or more portions of the system are powered up immediately prior to receipt

of data from the data source and powered down upon receipt of said data.

Tahtinen discloses a power-saving method for a broadcast video receiver in

which portions of the receiver are switched off in between transmission bursts

[col. 1, l. 57 - col. 2, l. 11]).

It would have been obvious to have implemented the power-saving method

disclosed by Tahtinen in the system of Del Sordo for the purpose of reducing

power consumption [col. 1, l. 6-10].

Claim 30: Continuing with the rationale given for claim 10, Del Sordo in view of

Tahtinen further discloses a television system as claimed in claim 1 wherein the

second data portion is transmitted at a specified/scheduled time of availability (at

a regular burst interval [Tahtinen Abstract]) and the means for capturing the

second data portion are operable to be activated at the time of availability [col. 1,

l. 63 – col. 2, l. 11].

Claim 37 is rejected under the same grounds as claim 30.

11.   Claims 32 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable

over Del Sordo (WO 00/64180) in view of Perlman (WO98/50861).

        Claim 32: Del Sordo does not disclose a television system as claimed in claim 1

        comprising means for detecting the presence and identity of a hardware adapter.

            Perlman discloses a host system that automatically detects the presence and

        identity of a hardware adapter [pg. 1, l. 33 – pg. 2, l. 9].

            It would have been obvious to have implemented the automatic peripheral

        recognition disclosed by Perlman in the system of Del Sordo for the purpose of

        allowing the user to connect peripheral devices that are automatically recognized

        by the system for downloading of device drivers [pg. 1, l. 25-30].

        Claim 33: Continuing with the rationale given for claim 32, Del Sordo in view of

        Perlman discloses a television system as claimed in claim 1 wherein a data

        object containing executable driver software is downloaded conditionally upon

        the presence and identity of a hardware adapter [Perlman pg. 1, l. 33 – pg. 2, l.

        9].

12.   Claims 34 and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable

over Del Sordo (WO 00/64180) in view of Perlman (WO98/50861), further in view of

Weiss (US 6930598).

Claim 34: Del Sordo in view of Perlman does not specifically disclose a television system as claimed in claim 32, wherein the hardware adapter is a communications adapter such as local area network adapter.

Weiss discloses a method for switching communication means by plugging in a communications adapter [col. 6, l. 19-25].

It would have been obvious to have used the method for switching communication means with the system of Del Sordo in view of Perlman for the purpose of allowing the user to easily create connections with diverse devices by plugging in adaptors that establish links between the devices.

Claim 35: Del Sordo in view of Perlman, further in view of Weiss discloses a television system as claimed in claim 34 wherein the communications adapter communicates via wireless means [Weiss col. 6, l. 19-25].

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to BENNETT INGVOLDSTAD whose telephone number is (571)270-3431. The examiner can normally be reached on M-Th 8-6:30 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Scott Beliveau can be reached on (571) 272-7343. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

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Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

BI

/Scott Beliveau/
Supervisory Patent Examiner, Art Unit 2623